

AMENDED IN ASSEMBLY AUGUST 6, 2012

AMENDED IN ASSEMBLY JUNE 26, 2012

AMENDED IN SENATE MAY 15, 2012

AMENDED IN SENATE APRIL 18, 2012

SENATE BILL

No. 1477

Introduced by Senator Anderson

February 24, 2012

An act to amend, *repeal, and add* Section 1277 of, *and to add Section 1278.2 to*, the Code of Civil Procedure, relating to confidential records.

LEGISLATIVE COUNSEL'S DIGEST

SB 1477, as amended, Anderson. Confidential records: name changes.

Existing

(1) *Existing* law establishes the procedure for a person to change his or her name. In the case of a petition for the name change of a person under 18 years of age, existing law requires the petition to include the name and address of the minor's parent or parents, as specified, and requires a minor's nonconsenting parent to be served with notice of the time and place of the hearing. When a proceeding for a change of name is commenced by the filing of a petition, existing law requires the court to issue an order reciting the filing of the petition, the name of the person by whom it is filed, and the name proposed, except as specified. Existing law also authorizes an address confidentiality program for victims of domestic violence, sexual assault, or stalking for the purposes of enabling state and local agencies to respond to requests for public records without disclosing a program participant's residence address contained in any public record and otherwise providing for confidentiality of identity for that person, subject to specified conditions.

Existing law provides that if a petition for a change of name alleges a specified reason or circumstance and the petitioner is a participant in the address confidentiality program, the action for a change of name is exempt from the publication requirement.

This bill would authorize a court, *until January 1, 2016*, to waive the above-described requirements for publication and notice if ~~required to protect the best interests of the child~~ *the court finds in writing or on the record that a waiver is necessary, and upon a showing by the petitioner that the child and petitioner are participants in the address confidentiality program, that the petitioner court has issued a final order that awards the petitioner sole custody of the child and does not grant the nonpetitioning parent any visitation with the child, as specified, that the child is protected by an order pursuant to the Domestic Violence Prevention Act that prevents the nonpetitioning parent from having contact with the child for at least 5 years until the child is 18 years of age or older, and that the nonpetitioning parent is not subject to an order to pay child support for the minor.*

If a court waives the publication and notice requirements described above and enters an order granting a child's change of name petition, this bill would, until January 1, 2016, require the petitioner to provide notice of the child's name change to the nonpetitioning parent by serving the nonpetitioning parent with a copy of the order, as specified.

This bill would also require the Judicial Council to study the effect of waiving the publication and notice requirements, as described above, and to report all of its findings to the Legislature on or before April 1, 2015, as specified. The bill would, until January 1, 2016, require any court that waives the publication and notice requirements and enters an order granting a child's change of name petition to provide a copy of the order to the Judicial Council, as specified.

This bill would also revise the provisions that authorize a petition for ~~name change~~ *change of name* to be exempt from the notice and publication requirements described above to require the petitioner to establish that he or she is an active participant in the address confidentiality program and that the name that he or she is seeking to acquire is on file with the Secretary of State.

(2) Existing law requires a petition or application for change of name to be heard at a hearing if objections are filed by any person who can show good reason against the name change. Existing law authorizes the court to examine on oath any of the petitioners, remonstrants, or other persons, touching the petition or application, and to enter an

order granting the change of name or dismissing the petition or application, as specified.

This bill would require a court, in any hearing pursuant to the provisions described above in which a petition is filed to change the name of a minor, to permit a child who is 14 years of age or older to address the court regarding the proposed name change if the child wishes to do so, unless the court finds that it would not be in the best interest of the child and states the reasons for that finding on the record.

Vote: majority. Appropriation: no. Fiscal committee: ~~no~~ yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 1277 of the Code of Civil Procedure is
2 amended to read:
3 1277. (a) If a proceeding for a change of name is commenced
4 by the filing of a petition, except as provided in subdivisions ~~(b)~~,
5 ~~(e)~~, and ~~(e)~~, (c), (d), and (f), the court shall thereupon make an
6 order reciting the filing of the petition, the name of the person by
7 whom it is filed, and the name proposed. The order shall direct all
8 persons interested in the matter to appear before the court at a time
9 and place specified, which shall be not less than six nor more than
10 12 weeks from the time of making the order, unless the court orders
11 a different time, to show cause why the application for change of
12 name should not be granted. The order shall direct all persons
13 interested in the matter to make known any objection that they
14 may have to the granting of the petition for change of name by
15 filing a written objection, which includes the reasons for the
16 objection, with the court at least two court days before the matter
17 is scheduled to be heard and by appearing in court at the hearing
18 to show cause why the petition for change of name should not be
19 granted. The order shall state that, if no written objection is timely
20 filed, the court may grant the petition without a hearing.
21 A copy of the order to show cause shall be published pursuant
22 to Section 6064 of the Government Code in a newspaper of general
23 circulation to be designated in the order published in the county.
24 If no newspaper of general circulation is published in the county,
25 a copy of the order to show cause shall be posted by the clerk of
26 the court in three of the most public places in the county in which
27 the court is located, for a like period. Proof shall be made to the

1 satisfaction of the court of this publication or posting, at the time
2 of the hearing of the application.

3 Four weekly publications shall be sufficient publication of the
4 order to show cause. If the order is published in a daily newspaper,
5 publication once a week for four successive weeks shall be
6 sufficient.

7 If a petition has been filed for a minor by a parent and the other
8 parent, if living, does not join in consenting thereto, the petitioner
9 shall cause, not less than 30 days prior to the hearing, to be served
10 notice of the time and place of the hearing or a copy of the order
11 to show cause on the other parent pursuant to Section 413.10,
12 414.10, 415.10, or 415.40. If notice of the hearing cannot
13 reasonably be accomplished pursuant to Section 415.10 or 415.40,
14 the court may order that notice be given in a manner that the court
15 determines is reasonably calculated to give actual notice to the
16 nonconsenting parent. In that case, if the court determines that
17 notice by publication is reasonably calculated to give actual notice
18 to the nonconsenting parent, the court may determine that
19 publication of the order to show cause pursuant to this subdivision
20 is sufficient notice to the nonconsenting parent. ~~A~~

21 *(b) (1) A court may waive the requirements for publication and*
22 *notice under this section subdivision (a) if required the court finds*
23 *in writing or on the record that a waiver is necessary to protect*
24 *the best interests of the child and upon a showing by the petitioner*
25 *of all of the following:*

26 ~~(1)~~

27 (A) The child and the petitioner are participants in the address
28 confidentiality program created pursuant to Chapter 3.1
29 (commencing with Section 6205) of Division 7 of Title 1 of the
30 Government Code.

31 ~~(2)~~

32 (B) A court has issued a final order awarding the petitioner sole
33 legal and physical custody of the child *and the order does not*
34 *grant the nonpetitioning parent any visitation with the child,*
35 *including supervised visitation.*

36 ~~(3)~~

37 (C) The child is protected by an order issued after a hearing
38 pursuant to the Domestic Violence Prevention Act, Division 10
39 (commencing with Section 6200) of the Family Code, that prevents
40 the nonpetitioning parent from having any contact with the child

1 ~~and that was issued with a duration of at least five years until the~~
2 ~~child is 18 years of age or older.~~

3 ~~(4)~~

4 (D) The nonpetitioning parent is not subject to an order to pay
5 child support for the minor whose name is proposed to be changed.

6 (2) *If a court waives the publication and notice requirements*
7 *pursuant to paragraph (1) and enters an order granting a child's*
8 *change of name petition, the petitioner shall provide notice of the*
9 *child's name change to the nonpetitioning parent by serving the*
10 *nonpetitioning parent with a copy of the order. If the order does*
11 *not contain the child's new name, the petitioner shall include the*
12 *child's changed name with a copy of the order.*

13 (3) *The Judicial Council shall study the effect of waiving the*
14 *publication and notice requirements pursuant to paragraph (1),*
15 *and shall report all of its findings to the Legislature on or before*
16 *April 1, 2015, in the manner provided in Section 9795 of the*
17 *Government Code. For purposes of assisting with the report, any*
18 *court that waives the publication and notice requirements pursuant*
19 *to paragraph (1) and enters an order granting a child's change*
20 *of name petition shall provide a copy of the order to the Judicial*
21 *Council.*

22 ~~(b)~~

23 (c) (1) If the petition for a change of name alleges a reason or
24 circumstance described in paragraph (2), and the petitioner has
25 established that he or she is an active participant in the address
26 confidentiality program created pursuant to Chapter 3.1
27 (commencing with Section 6205) of Division 7 of Title 1 of the
28 Government Code, and that the name he or she is seeking to acquire
29 is on file with the Secretary of State, the action for a change of
30 name is exempt from the requirement for publication of the order
31 to show cause ~~under~~ pursuant to subdivision (a), and the petition
32 and the order of the court shall, in lieu of reciting the proposed
33 name, indicate that the proposed name is confidential and is on
34 file with the Secretary of State pursuant to the provisions of the
35 address confidentiality program.

36 (2) The procedure described in paragraph (1) applies to petitions
37 alleging any of the following reasons or circumstances:

38 (A) To avoid domestic violence, as defined in Section 6211 of
39 the Family Code.

1 (B) To avoid stalking, as defined in Section 646.9 of the Penal
2 Code.

3 (C) The petitioner is, or is filing on behalf of, a victim of sexual
4 assault, as defined in Section 1036.2 of the Evidence Code.

5 (3) For any petition under this subdivision, the current legal
6 name of the petitioner shall be kept confidential by the court and
7 shall not be published or posted in the court's calendars, indexes,
8 or register of actions, as required by Article 7 (commencing with
9 Section 69840) of Chapter 5 of Title 8 of the Government Code,
10 or by any means or in any public forum, including a hardcopy or
11 an electronic copy, or any other type of public media or display.

12 (4) (A) A petitioner may request that the court file the petition
13 and any other papers associated with the proceeding under seal.
14 The court may consider the request at the same time as the petition
15 for name change, and may grant the request in any case in which
16 the court finds that all of the following factors apply:

17 (i) There exists an overriding interest that overcomes the right
18 of public access to the record.

19 (ii) The overriding interest supports sealing the record.

20 (iii) A substantial probability exists that the overriding interest
21 will be prejudiced if the record is not sealed.

22 (iv) The proposed order to seal the records is narrowly tailored.

23 (v) No less restrictive means exist to achieve the overriding
24 interest.

25 (B) On or before January 1, 2010, the Judicial Council shall
26 develop rules of court and forms consistent with the requirements
27 of this paragraph.

28 (e)

29 (d) A proceeding for a change of name for a witness
30 participating in the state Witness Protection Program established
31 by Title 7.5 (commencing with Section 14020) of Part 4 of the
32 Penal Code who has been approved for the change of name by the
33 program is exempt from the requirement for publication of the
34 order to show cause ~~under~~ pursuant to subdivision (a).

35 (d)

36 (e) If application for change of name is brought as part of an
37 action ~~under~~ pursuant to the Uniform Parentage Act (Part 3
38 (commencing with Section 7600) of Division 12 of the Family
39 Code), whether as part of a petition or cross-complaint or as a
40 separate order to show cause in a pending action ~~thereunder~~, service

1 of the application shall be made upon all other parties to the action
2 in a like manner as prescribed for the service of a summons, as is
3 set forth in Article 3 (commencing with Section 415.10) of Chapter
4 4 of Title 5 of Part 2. Upon the setting of a hearing on the issue,
5 notice of the hearing shall be given to all parties in the action in a
6 like manner and within the time limits prescribed generally for the
7 type of hearing (whether trial or order to show cause) at which the
8 issue of the change of name is to be decided.

9 (e)

10 (f) If a guardian files a petition to change the name of his or her
11 minor ward pursuant to Section 1276:

12 (1) The guardian shall provide notice of the hearing to any living
13 parent of the minor by personal service at least 30 days prior to
14 the hearing.

15 (2) If either or both parents are deceased or cannot be located,
16 the guardian shall cause, not less than 30 days prior to the hearing,
17 to be served a notice of the time and place of the hearing or a copy
18 of the order to show cause on the child's grandparents, if living,
19 pursuant to Section 413.10, 414.10, 415.10, or 415.40.

20 (g) *This section shall remain in effect only until January 1, 2016,*
21 *and as of that date is repealed, unless a later enacted statute, that*
22 *is enacted before January 1, 2016, deletes or extends that date.*

23 SEC. 2. Section 1277 is added to the Code of Civil Procedure,
24 to read:

25 1277. (a) *If a proceeding for a change of name is commenced*
26 *by the filing of a petition, except as provided in subdivisions (b),*
27 *(c), and (e), the court shall make an order reciting the filing of the*
28 *petition, the name of the person by whom it is filed, and the name*
29 *proposed. The order shall direct all persons interested in the matter*
30 *to appear before the court at a time and place specified, which*
31 *shall be not less than six nor more than 12 weeks from the time of*
32 *making the order, unless the court orders a different time, to show*
33 *cause why the application for change of name should not be*
34 *granted. The order shall direct all persons interested in the matter*
35 *to make known any objection that they may have to the granting*
36 *of the petition for change of name by filing a written objection,*
37 *which includes the reasons for the objection, with the court at least*
38 *two court days before the matter is scheduled to be heard and by*
39 *appearing in court at the hearing to show cause why the petition*
40 *for change of name should not be granted. The order shall state*

1 *that, if no written objection is timely filed, the court may grant the*
2 *petition without a hearing.*

3 *A copy of the order to show cause shall be published pursuant*
4 *to Section 6064 of the Government Code in a newspaper of general*
5 *circulation to be designated in the order published in the county.*
6 *If no newspaper of general circulation is published in the county,*
7 *a copy of the order to show cause shall be posted by the clerk of*
8 *the court in three of the most public places in the county in which*
9 *the court is located, for a like period. Proof shall be made to the*
10 *satisfaction of the court of this publication or posting, at the time*
11 *of the hearing of the application.*

12 *Four weekly publications shall be sufficient publication of the*
13 *order to show cause. If the order is published in a daily newspaper,*
14 *publication once a week for four successive weeks shall be*
15 *sufficient.*

16 *If a petition has been filed for a minor by a parent and the other*
17 *parent, if living, does not join in consenting thereto, the petitioner*
18 *shall cause, not less than 30 days prior to the hearing, to be served*
19 *notice of the time and place of the hearing or a copy of the order*
20 *to show cause on the other parent pursuant to Section 413.10,*
21 *414.10, 415.10, or 415.40. If notice of the hearing cannot*
22 *reasonably be accomplished pursuant to Section 415.10 or 415.40,*
23 *the court may order that notice be given in a manner that the court*
24 *determines is reasonably calculated to give actual notice to the*
25 *nonconsenting parent. In that case, if the court determines that*
26 *notice by publication is reasonably calculated to give actual notice*
27 *to the nonconsenting parent, the court may determine that*
28 *publication of the order to show cause under this subdivision is*
29 *sufficient notice to the nonconsenting parent. A court may waive*
30 *the requirements for publication and notice pursuant to this section*
31 *if required to protect the best interests of the child upon a showing*
32 *by the petitioner of all of the following:*

33 *(1) The child and the petitioner are participants in the address*
34 *confidentiality program created pursuant to Chapter 3.1*
35 *(commencing with Section 6205) of Division 7 of Title 1 of the*
36 *Government Code.*

37 *(2) A court has issued a final order awarding the petitioner sole*
38 *legal and physical custody of the child.*

39 *(3) The child is protected by an order issued after a hearing*
40 *pursuant to the Domestic Violence Prevention Act, Division 10*

1 *(commencing with Section 6200) of the Family Code, that prevents*
2 *the nonpetitioning parent from having any contact with the child*
3 *and that was issued with a duration of at least five years.*

4 *(4) The nonpetitioning parent is not subject to an order to pay*
5 *child support for the minor whose name is proposed to be changed.*

6 *(b) (1) If the petition for a change of name alleges a reason or*
7 *circumstance described in paragraph (2), and the petitioner has*
8 *established that he or she is an active participant in the address*
9 *confidentiality program created pursuant to Chapter 3.1*
10 *(commencing with Section 6205) of Division 7 of Title 1 of the*
11 *Government Code, and that the name he or she is seeking to*
12 *acquire is on file with the Secretary of State, the action for a*
13 *change of name is exempt from the requirement for publication of*
14 *the order to show cause pursuant to subdivision (a), and the*
15 *petition and the order of the court shall, in lieu of reciting the*
16 *proposed name, indicate that the proposed name is confidential*
17 *and is on file with the Secretary of State pursuant to the provisions*
18 *of the address confidentiality program.*

19 *(2) The procedure described in paragraph (1) applies to*
20 *petitions alleging any of the following reasons or circumstances:*

21 *(A) To avoid domestic violence, as defined in Section 6211 of*
22 *the Family Code.*

23 *(B) To avoid stalking, as defined in Section 646.9 of the Penal*
24 *Code.*

25 *(C) The petitioner is, or is filing on behalf of, a victim of sexual*
26 *assault, as defined in Section 1036.2 of the Evidence Code.*

27 *(3) For any petition under this subdivision, the current legal*
28 *name of the petitioner shall be kept confidential by the court and*
29 *shall not be published or posted in the court's calendars, indexes,*
30 *or register of actions, as required by Article 7 (commencing with*
31 *Section 69840) of Chapter 5 of Title 8 of the Government Code,*
32 *or by any means or in any public forum, including a hardcopy or*
33 *an electronic copy, or any other type of public media or display.*

34 *(4) (A) A petitioner may request that the court file the petition*
35 *and any other papers associated with the proceeding under seal.*
36 *The court may consider the request at the same time as the petition*
37 *for name change, and may grant the request in any case in which*
38 *the court finds that all of the following factors apply:*

39 *(i) There exists an overriding interest that overcomes the right*
40 *of public access to the record.*

1 (ii) *The overriding interest supports sealing the record.*

2 (iii) *A substantial probability exists that the overriding interest*
3 *will be prejudiced if the record is not sealed.*

4 (iv) *The proposed order to seal the records is narrowly tailored.*

5 (v) *No less restrictive means exist to achieve the overriding*
6 *interest.*

7 (B) *On or before January 1, 2010, the Judicial Council shall*
8 *develop rules of court and forms consistent with the requirements*
9 *of this paragraph.*

10 (c) *A proceeding for a change of name for a witness*
11 *participating in the state Witness Protection Program established*
12 *by Title 7.5 (commencing with Section 14020) of Part 4 of the*
13 *Penal Code who has been approved for the change of name by the*
14 *program is exempt from the requirement for publication of the*
15 *order to show cause under subdivision (a).*

16 (d) *If application for change of name is brought as part of an*
17 *action pursuant to the Uniform Parentage Act (Part 3 (commencing*
18 *with Section 7600) of Division 12 of the Family Code), whether*
19 *as part of a petition or cross-complaint or as a separate order to*
20 *show cause in a pending action, service of the application shall*
21 *be made upon all other parties to the action in a like manner as*
22 *prescribed for the service of a summons, as is set forth in Article*
23 *3 (commencing with Section 415.10) of Chapter 4 of Title 5 of Part*
24 *2. Upon the setting of a hearing on the issue, notice of the hearing*
25 *shall be given to all parties in the action in a like manner and*
26 *within the time limits prescribed generally for the type of hearing*
27 *(whether trial or order to show cause) at which the issue of the*
28 *change of name is to be decided.*

29 (e) *If a guardian files a petition to change the name of his or*
30 *her minor ward pursuant to Section 1276:*

31 (1) *The guardian shall provide notice of the hearing to any*
32 *living parent of the minor by personal service at least 30 days*
33 *prior to the hearing.*

34 (2) *If either or both parents are deceased or cannot be located,*
35 *the guardian shall cause, not less than 30 days prior to the hearing,*
36 *to be served a notice of the time and place of the hearing or a copy*
37 *of the order to show cause on the child's grandparents, if living,*
38 *pursuant to Section 413.10, 414.10, 415.10, or 415.40.*

39 (f) *This section shall be operative on January 1, 2016.*

1 *SEC. 3. Section 1278.2 is added to the Code of Civil Procedure,*
2 *to read:*

3 *1278.2. (a) In any hearing pursuant to Section 1278 in which*
4 *a petition is filed to change the name of a minor, the court shall*
5 *permit any child who is 14 years of age or older to address the*
6 *court regarding the proposed name change if the child wishes to*
7 *do so, unless the court finds that it would not be in the best interest*
8 *of the child and states the reasons for that finding on the record.*

9 *(b) Nothing in this section shall be construed to prevent a child*
10 *who is less than 14 years of age from addressing the court*
11 *regarding a proposed name change, if the court determines that*
12 *it would be appropriate, based on the best interest of the child.*